

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 22ND JUNE 2007 / 1ST ASHADHA 1929

Crl.MC.No. 1997 of 2007()

AGAINST L.P.R.NO.1/00 ON THE FILES OF THE COURT OF JUDICIAL
MAGISTRATE OF THE FIRST CLASS-II, CHENGANNUR
.....

PETITIONER: 2ND ACCUSED

MONACHEN, S/O.ALBERT,
AGED 42 YEARS,
MODIYIL VEEDU, VETTIYAR VILLAGE,
KALLIMEL MURI.

BY ADV. SRI.B.UNNIKRISHNA KAIMAL

RESPONDENTS: COMPLAINANT

S.I OF POLICE,
MAVELIKKARA POLICE STATION, REP. BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22/06/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R.BASANT, J

Crl.M.C.No.1997 of 2007

Dated this the 22nd day of June, 2007

ORDER

Petitioner is the 2nd accused in a prosecution, inter alia, under Section 353 I.P.C. Those proceedings were initiated as early as in 1993. Investigation was complete. Final report was filed and cognizance was taken. The case was registered as C.C.No.471 of 1996. The petitioner was not available for trial. As the petitioner was not available, the case against him was split up and transferred to the list of Long Pending Cases. All the offences alleged were bailable on the date of commission of the offences though by a subsequent amendment, the offence under Section 353 I.P.C is made non bailable in the year 2006.

2. According to the petitioner, he is absolutely innocent. He was not available at his native place and that is why he could not appear before the learned Magistrate earlier. He now wants to surrender before the learned Magistrate, but he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He has a further request. He prays that after his appearance, which is to take place in future, the case against him may be directed to be disposed of by the learned Magistrate expeditiously. I find absolutely no reason to invoke the powers under Section 482 Cr.P.C in a matter

like this. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

3. I do not think it necessary to issue any directions regarding expeditious disposal at this stage. But I must certainly remind the learned Magistrate that the incident relates to the year 1993 and the case was registered initially in 1996. Even without any prayer from the petitioner, the learned Magistrate must make every endeavour to dispose of the case as expeditiously as possible.

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-

